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Date: 01/11/2022

MATTHEWS, ROBERT

Time: 2:31:55 PM

PENSKE TRUCK LEASING CO. L.P.,
TRACIE MCCORMICK, INC., and
DERR, DAVID

State Fee Index Number	\$165.00
County Fee Index Number	\$26.00
State Fee Cultural Education	\$14.25
State Fee Records Management	\$4.75
Total Fees Paid:	Employee: ARC \$210.00

State of New York

MONROE COUNTY CLERK'S OFFICE
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JAMIE ROMEO

MONROE COUNTY CLERK



Office of the Monroe
County Clerk

STATE OF NEW YORK
Supreme Court,
County of Monroe

Adam Bello
County Clerk

ROBERT MATTHEWS,

Plaintiff,

v.

Index no.
Application

PENSKE TRUCK LEASING CO. L.P., TRACIE
MCCORMICK, INC., and DAVID DERR,

Defendants.

Attorney for Plaintiff: Parisi & Bellavia, LLP
16 West Main Street
Suite 141
Rochester, NY 14614

Attorney for Defendants

Name of Payor: Parisi & Bellavia, LLP

Receipt
(Fee: 210.00)

Supreme Court, Monroe County

*Endorse This Index #
On All Papers*

ROBERT MATTHEWS,

Plaintiff,

v.

PENSKE TRUCK LEASING CO. L.P., TRACIE
MCCORMICK, INC., and DAVID DERR

Defendants.

STATE OF NEW YORK SUPREME COURT
COUNTY OF MONROE

ROBERT MATTHEWS,

Plaintiff,

v.

SUMMONS

Index No.

Plaintiff designates Monroe County as the place of trial.

The basis of the venue is the Plaintiffs place of residence.

PENSKE TRUCK LEASING CO. L.P., TRACIE MCCORMICK, INC., and DAVID DERR,

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer, or, if the Complaint is not served with the Summons, to serve a Notice of Appearance, on the Plaintiffs' attorney within (20) days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The basis of venue designated as the residence of the plaintiff, which is 269 Straub Road, Rochester, New York 14626.

January 11, 2022

Timothy Bellavia, Esq.
Parisi & Bellavia, LLP
16 W Main Street
Suite 141
Rochester, NY 14614
(585)232-8000

STATE OF NEW YORK SUPREME COURT
COUNTY OF MONROE

ROBERT MATTHEWS,

Plaintiff,

COMPLAINT

v.

Index No.:

PENSKE TRUCK LEASING CO. L.P., TRACIE
MCCORMICK, INC., and DAVID DERR,

Defendants.

The plaintiff, ROBERT MATTHEWS, complaining of the defendants, PENSKE TRUCK LEASING, CO. L.P., TRACIE MCCORMICK, INC., and DAVID DERR alleges as follows:

1. Plaintiff ROBERT MATTHEWS is, and at all times hereinafter mentioned was, a resident of the County of Monroe and State of New York.
2. Upon Information and belief, defendant PENSKE TRUCK LEASING CO., L.P. is, and at all times hereinafter mentioned was, a foreign limited partnership licensed to do business in the State of New York.
3. Upon information and belief, defendant TRACIE MCCORMICK, INC. is, and at all times hereinafter mentioned was, a corporation with its principal place of business in Murfreesboro, Tennessee.
4. Upon information and belief, defendant DAVID DERR is, and at all times hereinafter mentioned was, a resident of the County of Centre and State of Pennsylvania.
5. Upon information and belief, defendant DAVID DERR, at all times hereinafter mentioned, was the driver of the truck cab with Indiana License Plate number 2322290 which was pulling a trailer with Tennessee license plate number U743322.

6. Upon information and belief, defendant PENSKE TRUCK LEASING CO., L.P., at all times hereinafter mentioned, owned the truck cab with Indiana License Plate number 2322290.

7. Upon information and belief, defendant TRACIE MCCORMICK, INC., at all times hereinafter mentioned, owned the truck cab with Indiana License Plate number 2322290.

8. Upon information and belief, defendant TRACIE MCCORMICK, INC., at all times hereinafter mentioned, leased the truck cab with Indiana License Plate number 2322290 from defendant PENSKE TRUCK LEASING CO., L.P.

9. Upon information and belief, defendant DAVID DERR, at all times hereinafter mentioned, leased the truck cab with Indiana license plate number 2322290 from defendant PENSKE TRUCK LEASING CO., L.P..

10. Upon information and belief, defendant DAVID DERR, at all times hereinafter mentioned, owned the truck cab with Indiana License Plate number 2322290.

11. Upon information and belief, defendant DAVID DERR, at all times hereinafter mentioned, operated the aforementioned truck cab with Indiana License plate number 2322290 with both the permission and consent of defendant PENSKE TRUCK LEASING CO., L.P.

12. Upon information and belief, defendant DAVID DERR, at all times hereinafter mentioned, operated the aforementioned truck cab with Indiana license plate number 2322290 with both the permission and consent of defendant TRACIE MCCORMICK, INC..

13. Upon information and belief, defendant DAVID DERR, at all times hereinafter mentioned, operated the aforementioned truck cab with Indiana license plate number 2322290 within the performance of his duties and scope of his employment with defendant TRACIE MCCORMICK, INC..

14. Upon information and belief, at all times hereinafter mentioned, the aforementioned trailer with Tennessee license plate number UT43322 was owned by defendant PENSKE TRUCK LEASING CO., L.P..

15. UPON information and belief, at all times hereinafter mentioned the aforementioned trailer with Tennessee license plate number UT43322 was owned by defendant TRACIE MCCORMICK, INC..

16. Upon information and belief, at all times hereinafter mentioned, the aforementioned trailer with Tennessee license plate number UT43322 was owned by defendant DAVID DERR.

17. Upon information and belief, at all times hereinafter mentioned, defendant DAVID DERR was the driver transporting the aforementioned truck trailer with Tennessee license plate number UT43322 with both the permission and consent of defendant PENSKE TRUCK LESING CO., L.P..

18. Upon information and belief, at all times hereinafter mentioned defendant DAVID DERR was the driver transporting the aforementioned truck trailer with Tennessee license plate number UT43322 with both the permission and consent of defendant TRACIE MCCORMICK, INC..

19. Upon information and belief, at all times hereinafter mentioned, defendant DAVID DERR was the driver transporting the aforementioned truck trailer with Tennessee license plate number UT43322 within the performance of his duties and scope of his employment with defendant TRACIE MCCORMICK, INC..

20. That on or about March 5, 2019, in the vicinity of East Henrietta Road, 100 feet north of route 390, in town of Henrietta, County of Monroe and state of New York, defendant DAVID G. DERR carelessly, recklessly and negligently operated said truck cab with Indiana license plate number 2322290 and trailer with Tennessee license plate number UT43322, so as to cause the tire of the tractor trailer to strike the vehicle operated by plaintiff ROBERT MATTHEWS.

21. As a direct and proximate cause of such negligence, plaintiff sustained personal injuries resulting in hospitalization, medical treatment, and pain and suffering.

22. The injuries suffered by plaintiff ROBERT MATTHEWS hereinafter alleged were caused solely as a result of the negligence of the defendants, with no negligence on the part of the plaintiff contributing thereto.

23. As a result of the negligence of the defendants, plaintiff ROBERT MATTHEWS was personally injured and suffered serious injuries, including, but not limited to neck and back, as defined in section 5102 of the Insurance Law of the State of New York and was otherwise injured.

24. As a result of the foregoing, plaintiff ROBERT MATTHEWS has suffered economic loss greater than basic economic loss, as defined in section 5102 of the Insurance Law of the State of New York, and was otherwise damaged.

25. Upon information and belief, the injuries sustained by plaintiff ROBERT MATTHEWS will be permanent.

26. That, as a result of the foregoing, plaintiff ROBERT MATTHEWS lost earnings and his earning capacity, will be required to obtain hospital, medical, nursing and related services in the future and will be required to make other expenditures in the care and treatment of her injuries in the future.

27. The limitations on liability set forth in Article 16 of the CPLR do not apply by virtue of the application of one or more exemptions set forth in section 1602 of the CPLR.

28. That as a result of the negligence of the defendants, plaintiff has been damaged in an amount that exceeds the jurisdictional limitations of all lower courts.

WHEREFORE, plaintiff demands judgment against the defendants in an amount that exceeds the jurisdictional limitations of all lower courts, together with the costs and disbursements of this action.

Dated: Rochester, New York
January 11, 2022



Timothy Bellavia, Esq.
Parisi & Bellavia Law, LLP
16 W Main Street
Suite 141
Rochester, NY 14614
(585) 232-8000